Department of Russell

OFFICE of the Board of Re

STATION Meerut

Mis No. 2423

2423

Dated 31/8/33

A 2771/3

In reply, please quote number, date and short title.

Received 22 AUG 1933

REVENUE

Registered

From (Name) F.W.Stewart Esq.,C.I.E.,I.C.S.

(Designation) Collector of Bellary

Post Box....., (Station) Bellary

Telegraphic Address.....

To The Secretary to the Commissioners,

Board of Revenue, Land Revenue & Settlement,

C. *No.* ~~3140/33A.1.~~ *dated* ~~3.8.33~~ 19

Suit -O.S. 199/33 - Bellary District court-plaintiff Mulemani Siddanagowd to establish his right to the stones quarried in S.No. 107- Dasapuram (R) Siruguppa taluk -

Mulemani Siddanagowd has filed a suit impleading Government as one of the defendants. I request the Board's sanction for the defence.

2. The facts of the case are:

Boya Hanuma Naik of Dasapuram obtained a free permit from the Revenue Inspedtor of Tekkalakota on 11.6.29 for quarrying 200 cart loads of stone in S.No. 107 A of Dasapuram. The licensee took only 100 cart loads and appears to have left the rest at the disposal of Vadde Chennappa. Mulemani Siddanagowd the present plaintiff claimed to have purchased this remainder for Rs.90 on or about March 1930 from Vadde Chennappa and attempted to remove them in November 1930, but he was prevented from doing so by Kardihalli Lingappa, the 2nd defendant, who claimed them by sale from Pedda Rudra Gowd of Sirigeri. The Tahsildar enquired into their claims and passed orders to sell the stones in public auction.

was an appeal to the Collector and Mr.Galletti ordered on 25.7.31 that the stones might be given to the plaintiff as a matter of grace but on payment of seigniorage fees (page 19 of D.Dis.2985/32).

On the revision petition of Kardihalli Linganna Mr.Galletti modified the order and directed that the stones should be shared by those who in the Tahsildar's opinion had some claim but on payment of seigniorage fees (page 25 of D.Dis. 2985/32). In pursuanc this order the Tahsildar issued a notice to the two claimants on 25.8.31 to prove their claims. Linganna agreed to receive the stones in any proportion that might be fixed after enquiry while the plaintiff claimed the whole lot. The Tahsildar ordered that the stones should be apportioned between these two in the ratio of 3:1. There was an appeal to the Collector against the Tahsildar's orders and Mr.Galletti dismissed the petition on 21.12.31. (page 39 of D.Dis. 2985/32).

The present plaintiff then served a notice under Sec. 80 C.P.C. on 1.11.32 stating that he did not agree to the Tahsildar's distribution and that Linganna was attempting to take possession of the stones and remove them from the field. In the meanwhile Linganna credited into the Treasury on 17.10.32 the seigniorage fee of Rs.19.6.0 and he was therefore permitted by my order of 3.2.33 to take possession of the whole lot of stones (page 41 of D.Dis. 6369/32). The plaintiff finally put in a petition on 9.2.33 accepting the Tahsildar's distribution and sa that he would drop all further proceedings in civil and criminal courts if 3/4 of the 100 cart loads of stones were placed in his possession.(page 1 of D.Dis.690/33). This change of attitude wa too late. However he was referred to the Tahsildar and the Tahs was informed that if the parties did not agree to the compromise the orders issued in this office DDis.6369/32 dated 3.2.33 shoul be enforced

enclosed.

1. Copy of the plaint
2. D.Dis. 2985/32
3. D.Dis. 6369/32
4. Permit
5. D.Dis. 690/33
6. L.Dis.C. 1555/33.

Arcot
19.8.
For Collector

In the court of the District Munsif,Bellary

O.S.No. 199 of 1933.

Between

Mulemane Siddana and

1. The Secretary of State of India in Council

Kardeehalli Linganna

Plaint on behalf of the plaintiff under Sec. 26 and O.7 R.I C. P.C.

Mulemani Siddana s/o ,aged about 42 years, son of . Gowd, Lingayat,cultivator,resident of i.dara pura,Siddu pa Address is C/O

M.B.Ry.,Rowan Bahadur P.Gopalaswami Mudaliar, ...

Advocate,Bellary.

2. Defendants

1. The Secretary of State for India in council rep the Collector of Bellary.

2. Kardihelli Lin ,aged about 45 years,son of Gowd cultivator,at Dasapuram,Siruguppa taluk.

3. Boya Hanumanayaka of Dasapuram had taken a licence Government for blasting stones to the extent of 200 carts in 107 1 of Dasapuram under licence No. 015364 dated 11.6.29. pursuance of the said Quy licence the said Boya Hanum Naik (D) two hundred cart loads of stones burnt and used only 100 carts stones. As the remaining 100 carts of stone were not found u to him, he sold the same to the plaintiff through Vaddo Chenn March 1930 for a sum of Rs.90. Which amount was paid to Vaddo Chen for the license holder. The said sum was represented to be the burnin charges due by the said Boya Hanumanthappa to the said Vad Chennappa

2. That if the stones have been removed (and used) the plaintiff be awarded its value of Rs.100 to be recovered from the defendants.

3. The plaintiff be awarded Rs.100 damages to be recovered from the defendants.

4. For such other relief as the court deem fit in the circumstances of the case.

5. For costs of the suit.

Sd. T.Gopalaswami Mudaliar
Advocate
for petitioners

I Gulamnabi Sirdar s/o the plaintiff above named do hereby declare that the facts stated in all the paras a

True Copy
By order

Asst.Md.Clerk

In the Court of the District Munsif of Bellary.

Original Suit No. 199 of 1932

Between

Mulemane SiddamaGowd

a n d

The Secretary of State for India Defendants
in Council represented by the
Collector of Bellary and another

Written statement on behalf of the 1st defendant under Order VIII, Rule 1,C.P.C.

1 This suit is not sustainable at law as

1. This defendant puts the plaintiff to strict proof of all the plaint allegations not expressly admitted herein.

2. The allegation in plaint para 3 that one Boya Hanuma Naick of Dasapuram obtained a permit on 11.6.1929 for the purpose of quarrying stones to the extent of 200 cart -loads in S.No.107 A of Dasapuram, an unassessed waste land, is correct. The said permit is No. 015364 dated 11.6.1929 and is herewith produced. The said permit was issued under rule 7 of the rules for control and management of minor forest produce under Section 26 of the Madras Forest Act V of 1882, The said permit was granted to the said Hanuma Naick on condition that he should use the stones for his bonafide domestic purposes. The time granted under the said permit for removal of the stones was

[illegible] also that a licensee cannot sell his rights to others. Under the permit the licensee is permitted to remove 200 cart loads of stones within a [illegible] after the expiry of the time granted in the permit, that is on 10-7-29 [illegible] the licensee [illegible] further rights in the land or in the stones found on the land. This defendant submits that after 10.7.1929 the licensee had no right whatever in the stones lying in land in S.No. 107 A of Dasapura. The property in suit is vested in the Government. In March 1930, the alleged time of the sale, Hanuma Naick, the licensee, had no rights to the stones lying in S.No. 107 A. of Dasapura. The property in suit [illegible] could not convey anything to his alleged purchaser.

5. This defendant is not aware of the allegations para 4.

6. The allegations in plaint para 5 are not correct and complete. It is true that as the licensee failed to remove the stones within the time granted to him under the permit the stones lying in the land were ordered to be sold in public auction. Subsequently the plaintiff and the 2nd defendant herein severally claimed the stones in question. Their claims were dismissed as unlawful and invalid. However on 25.7.31 an order was passed by the Collector to the effect that the stones should be given to the plaintiff on payment of the seigniorage fees in pursuance of the rules framed under the Madras Act V of 1882. This order was revised on 17.8.1931 and ~~under the revised order the plaintiff and the 2nd defendant were called upon to remove the stones in the proportion of 3 to 1 on payment of proportionate seigniorage fees.~~ the stones in question were ordered to be shared by those claiming the Tahsildar's opinion had for on payment of the seigniorage fees. The Tahsildar examined the claims of the plaintiff decided that they should share the stones in the

7. The title set up on behalf of the plaintiff in plaint para 6 of the plaint is illegal and invalid. The stones in question have always been the property of the Government. Boya Hanuma Naick of Dasapuram possessed only the rights of a licensee to remove the Government property within a month. He failed to do so and after 10.7.1929 he had no rights whatever in the property in question. Under the rules the Collector is authorised to deliver the stones to any one who pays the seigniorage fees. The 2nd defendant has paid such seigniorage fees and the order passed by the Collector is valid and lawful.

8. The plaintiff is not entitled to any damages as against this defendant The damages claimed are far fetched and too remote. They are also excessive.

9. The plaintiff's suit is barred by limitation under article 14. of the Limitation Act.

10. The plaintiff is not entitled whatever to the property in question. The alleged sale of the property in his favour is invalid and is not binding on this defendant.

~~10.~~ This defendant urges that the suit is vexatious and may be dismissed with exemplary costs.

Defendant

Dated Phony 29 9 33

Subject. 12

H. F. XXII-A-19—28,004—15-3-32 (6)

sands. (Bellary) Bellary Dt Munsiff
OS no 199/33 - Dasapuram village -
Quarrying of stones - Defence - Sanctioned

passed an order that the stones might ¶¶ 19-20 (J)
be given to the Plaintiff on payment
of seigniorage fees On 17/8/31
this order was revised by the Collr.. ¶ 25 (J)
It is for Consideration whether the
Collr can revise his own order. It seem
that the Collr cannot do so The
Plaintiff has not however raised this
point in the Plaint. It appears
that there is no necessity to go into
this question now

W.T. Robb

In the Court of the District Munsiff of Bellary.

Original Suit No. 199 of 1933.

Between

Mulemane SiddanaGowd — Plaintiff

The Secretary of State for India in Council represented by the Collector of Bellary and another — Defendants

Written statement on behalf of the 1st defendant under Order VIII, Rule I.C.P.C.

1. This suit is not sustainable at law and this defendant puts the plaintiff to the strict proof of all the allegations in the plaint that are not expressly admitted herein.

2. The allegation in para 3 of the plaint that one Boya Hanuma Naick of Dasapuram obtained a permit on 11-6-1929 for the purpose of quarrying stones to the extent of 200 cart-loads in S.No. 107 A of Dasapuram, an unassessed waste land, is correct. The said permit is No. 015364 dated 11-6-1929 and is herewith produced. This permit was issued under rule 7 of the rules for the control and management of minor forest produce framed under Section 26 of the Madras Forest Act V of 1882. The permit was granted to Boya Hanuma Naick on condition that he should use the stones for his bonafide domestic purposes. The time granted under the permit for the removal of the stones was one month.

3. The defendant is not aware of the allegation in para 3 of the plaint that the licensee sold 100 carts of stone to the plaintiff through one Vadde Chennappa about March 1930 for a sum of Rs.90/-.

than bonafide agricultural or domestic purposes. After the expiry of the month's time allowed by the permit, that is after 10-7-1929, the licensee had no further rights in the land or to the stones found on the land. The suit property is vested in the Government. In March 1930, the alleged time of the sale, Hanuma Naick, the licensee, had nc right to the stones lying in S.No. 107-A of Dasapuram and could not therefore convey anything to the alleged purchase:

5. The defendant is not aware of the allegations in para 4 of the plaint.

6. The allegations in ~~plaint~~ para 5 of the plaint are not correct and complete. It is true that as the licensee failed to remove the stones within the time granted to him under the permit the stones lying in the land were ordered to be sold in public auction. Subsequently the plaintiff and the 2nd defendant severally claimed the stones in question. Their claims were dismissed as unlawful and invalid. Howeve on 25-7-1931 an order was passed by the Collector to the effect that the stones should be given to the plaintiff on payment of the seigniorage fees in pursuance of the rules framed under the Madras Act V of 1882. This order was modified on 17-8-1931 and the stones in question were ordered to be shared by those who in the Tahsildar's opinion had some claim to them, on payment of the seigniorage fees. The Tahsildar examined the claims of the plaintiff and the 2nd defendant and decided that they should share the stones in th proportion of 3 to 1 on payment of proportionate seigniorage fees. The plaintiff refused to abide by the terms of the said order. The 2nd defendant, however, agreed to pay the full seigniorage fees and remove all the stones himself. An order was passed by the Collector on 3-2-1933 that the 100 cart loads of stones, the property in dispute, ~~may~~ might be given over to the 2nd defendant on his paying the full seigniorage fees. The allegation in para 5 of the plaint

about

about misrepresentation is not true. The final orders in the matter were passed after careful consideration of all the facts, after ~~enquiring~~ hearing all the parties concerned and in accordance with the rules framed under the Madras Forest Act V of 1882.

The title set up by the plaintiff in para 6 of the plaint is illegal and invalid. The stones in question have always been the property of the Government. Boya Hanuma Naick of Dasapuram possessed only the rights of a licensee to remove the Government property within a month. He failed to do so and after 10-7-1929 he had no rights whatever in the property in question. Under the rules the Collector is authorised to deliver the stones to any one who pays the seigniorage fees. The 2nd defendant had paid such seigniorage fees and the order passed by the Collector